

HEADLINE: Justice denied: Lack of forensic evidence delay criminal cases in Zimbabwe.

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QUOTE: "The only thing that the police confirmed was that Nicole (CQ) was raped. DNA samples of the accused person were taken for matching with the DNA samples from the semen collected from Nicole's body but we never got results until today," Josephine Mano

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NARRATIVE LEAD

Harare, Zimbabwe_ Josephine Mano (CQ_Source sheet) vividly remembers the night she lost her seven-year-old niece.

"She stood by the wall, unable to move and fell on the ground, I thought she had fainted, it didn't cross my mind that she would die, she wasn't even sick," says Mano. (CQ_Josephine)

Hours before her death, Nicole Mano, Josephine's (CQ) niece had told her that she had been raped and threatened if ever she was to tell anyone about the abuse.

Despite the threat, the young Nicole (CQ) told her aunt, they had planned to report the matter to the police the following day before Nicole died. (CQ_Josephine)

Investigations were made and Deoxyribonucleic acid (DNA) samples were collected but the results of the sample analysis were never released, the police said there were no resources to analyse the samples.

"The only thing that the police confirmed was that Nicole (CQ) was raped. DNA samples of the accused person were taken for matching with

the DNA samples from the semen collected from Nicole's body but we never got results until today," (CQ_Josephine)

"The rapist also sodomised her, her anal tracks were damaged and she died from those injuries," says Josephine. (CQ_Josephine)

Josephine doesn't have closure till today, the accused person was never prosecuted, there was no undeniable forensic evidence to prosecute. (CQ_Josephine)

NEWS VALUE

Zimbabwe's criminal investigation cases get delays in acquiring forensic evidence due to lack of up to date equipment and resources resulting in lack of closure for people seeking justice and imprisonment of some innocent people.

CONTEXT, BACKGROUND INFORMATION AND STATISTICS

A research by Talent Chipandu, a law student at Midlands State University titled, "Admissibility of DNA and digital evidence in Zimbabwe" states that evidence that looks and analyses DNA goes a long way in ensuring that justice is served. (CQ_[LINK](#))

"In Zimbabwe, the laws which provide for the admission of digital and DNA evidence are skeletal in nature except in criminal matter in relation to DNA. Due to other factors like poor technological advancements it is left to the court to determine the admissibility and relevance of evidence in the form of digital and DNA evidence," states the research. (CQ_[LINK](#))

Chipandu further states that there is lack of qualified personnel who can, "interpret, test and clarify these forms of evidence" in Zimbabwe such that DNA evidence may not be accepted as evidence in criminal cases. (CQ_[LINK](#))

Local Voices

In October 2020, Ronny Chinamungu (CQ_Source sheet) could not find his sister who had been admitted in hospital.

"My sister was not feeling well after the death of our mother, she was admitted at a hospital for several months. One day we visited the hospital to see her but they could not find her," he says.

Ronny's sister, Wendy Chinamungu (CQ_Ronny) was later found, unconscious. (CQ_Ronny)

“She was beaten, raped and could not speak, after a few days in hospital she passed away. We were devastated. The case was regarded as a criminal case and we could not bury Wendy until post mortems were done,” he says (CQ_Ronny)

Ronny adds that they tried to get the post mortem done through the help of the police but nothing materialised until they talked about their plight on national radio, that is when the police spearheaded the post mortem. (CQ_Ronny)

“We buried my sister after she had spent over two months in the mortuary, when the post-mortem results came it concluded that she had died due to injuries she sustained from the beatings and rape,” he says. (CQ_Ronny)

But for others, lack of forensic evidence means being held in police cells unnecessarily.

In 2011, Cynthia Manjoro (CQ_Source sheet) was arrested for murder, her vehicle had been found at a shopping centre where a police officer had been killed in a bar.

Besides her vehicle being at the shopping centre, nothing tied Manjoro (CQ) to the murder, yet she was imprisoned for murder and held for nine months.

“There was no forensic evidence that was collected at the scene to tie me to the case...at the time I was a single mother and it was very painful to leave my two-year-old son for nine months in someone else’s care. I worried everyday about his wellbeing and I went into depression and anxiety,” she says

Manjoro (CQ) says her son could not recognise her after her release and this broke her heart.

“In 2018 I was compensated, for my wrongful incarceration, the court had ordered that I be paid US\$18 075 but because at the time we were still using the one as to one USD to Zimbabwe dollar exchange rate I was given ZWL\$18 075 which at the time if you convert it to US dollars amounted to about US\$2000, which was less than the salary that I had been denied because of my incarceration,” she says (CQ_Manjoro)

Advocates

A 32-year-old prosecutor (CQ_Source sheet) working within the Zimbabwean court system who refused to be named for fear of losing her job says, “forensic evidence is Zimbabwe we can say it's actually nonexistent,” she says.

“In cases of rape, aggravated indecent assault, murder the state mostly rely on evidence of the eye witnesses. In most cases the police just take the tools used as an exhibit. For instance, if an accused person uses a knife, axe or machete to kill someone they just take those weapons and they will be used during trial. However, the weapons would not have gone for forensic examination. Even if there is blood on the axe or knife it won't be examined. It's just assumed it is the blood of the victim,” she says. (CQ)

The 32-year-old adds that the challenges of forensic evidence in Zimbabwe is attributed to lack of resources. From the onset when a matter is reported, the police cannot gather enough forensic evidence because kits to use will not be available says the prosecutor. (CQ)

“The State relies on the evidence of the victim and 'hue and cry' doctrine. Which entails who is the first person the victim told about the case. It is not a hard and fast rule though because at times victims don't tell anyone they can just withdraw,” she says.

This makes her job difficult.

“Some cases are so complicated that with the availability of forensic evidence they will be so easy to solve. The victims are not spared too because at times the matter ends up being removed from remand whilst we are waiting for results from SA. At times victims move on before the matter is finalized because that forensic evidence which is undisputable is missing,” she says.

Memory Kadau, the co-director at Adult Rape Clinic (ARC) (CQ_Source sheet) says in Sexual and gender Based Violence (SGBV) cases says their organization collects forensic evidence using rape kits as a way to assist people who have faced sexual abuse.

“The rape kit is then submitted to the police who then submit to the department of forensic sciences for analysis, but then in Zimbabwe it's not happening. No one is analysing that. Very few or rare cases were done, either locally or they are sent to South Africa. The forensic science department of the police say they have no resources,” says kadau (CQ)

Kadau says it undermines and weakens the criminal justice system, specifically prosecution of sexual violence crimes, “no one can really dispute DNA evidence if only the analysis could happen especially for

people who were raped by strangers, cases could benefit from analysis of hair, skin and semen so most of the people raped will never get their justice, because justice is also equal to closure,

...rapists are habitual in nature; analysis would help us build a DNA bank ... we would be able to pick a rapist when they repeat the same crime again," adds Kadau. (CQ)

Expert

Dr Sungai Mazando a Forensic Genetics specialists and senior lecturer at the University of Zimbabwe (CQ_Source sheet) defines forensic science as the use of conventional scientific tools to address legal questions, "In short, it is when law meets science," he says.

Mazando (CQ) says forensic science is premised on, "Locard's principle which says whenever perpetrators enter or leave a crime scene, they will leave something behind and take something with them", he says.

Mazando (CQ) says for crime incidents with no witnesses' physical evidence may be the only source of information and that is the role of forensic scientists to process physical evidence, rationalise and present findings before the court. Most rape scenes happen away from the glare of the public as well some assault crimes, night crimes among others, he says.

"Science tend to be very precise, reproducible and generally dependable hence forensic evidence give the court confidence in coming up with a conclusion on a matter. Forensic science also assists the criminal investigation systems to uncover suspects, to this end the use of DNA databases has proven invaluable in those countries where the science has been mainstreamed," he says.

Mazando agrees with the 32-year-old prosecutor, forensic evidence hasn't been fully utilised in Zimbabwe.

"Areas including fingerprint collection and analysis, ballistics, pathology, toxicology and DNA analysis have been accepted by the Zimbabwean community but are sparsely being exploited for lack of resources including financial and human both within the courts and the investigative systems. Many rape cases are not going for DNA analysis for lack of rape kits and even when rape kits are collected, most are not undergoing the requisite DNA analysis," he says.

Mazando (CQ) says Zimbabwean courts still entertain paternity or maternity disputes even in the absence of DNA paternity or maternity tests.

The lack of forensic evidence has far reaching consequences like in the case of Nicole. (CQ)

“Perpetrators may walk scot free due to lack of evidence with the risk of endangering the public or innocent people may be wrongfully incarcerated. Forensic science assists in alleviating miscarriages of justice by the courts,” he says. (CQ_Mazando)

Mazando says he carried out a research to determine the impact of DNA analysis on investigation, and finalization of homicide cases in Zimbabwe. From the research, he says statistics of homicide cases recorded from 2014 to 2019 were collected from the Criminal Investigations Department’s Forensic Liaison Office and High Court Criminal Records Bureau.

“The results showed that a total of 363 Homicide cases was recorded and in 273 of these cases DNA evidence was requested. Over the 6 years, only 30 cases with DNA evidence had their exhibits forwarded for DNA analysis and 23 cases were concluded. There was strong linear relationship between number of concluded cases and use of DNA evidence among cases with known suspect,” CQ_Mazando.

Mazando (CQ) says according to the research he conducted, average homicide case clearance rate was determined to be 9 out of the 60 cases received each year.

Wilbert Mandinde, Senior Lawyer at the Zimbabwe Human Rights NGO Forum (CQ_Source sheet) says it’s even difficult to get post mortem tests done especially in cases of human rights violations.

“During the 2018 post-election violence, we represented clients whose relatives had been shot by soldiers. In one case, the pathologist had concluded that the deceased had died as a result of stab wounds. It took the involvement of lawyers to have the doctor correct the report to reflect that the deceased had died as a result of gunshot wounds,” he says.

Mandinde (CQ) says they have a case in which we have been asking for a post-mortem since the shootings in January 2019. Such cases go nowhere...” he says.

“We represent Nyasha Dewa who was shot by the police at Zindoga Shopping Centre in 2019. We have requested for a post-mortem as well as for an inquest but this is a case which the police and the Prosecutor General’s office seem keen on ensuring it dies a natural death,” he says.

Way forward

Mazando (CQ) says forensic science requires a lot of investment, “both human and financial resource. The legislative framework must also evolve to cater for new and advanced ways of handling, storing and processing evidence,” he says.

LANGUAGE: Linda Mujuru translated some interviews from Shona to English.